

Migration Amendment (Hong Kong Passport Holders) Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 20 August 2020

David Hurley

Governor‑General

By His Excellency’s Command

Alan Tudge

Minister for Population, Cities and Urban Infrastructure
for the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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1 Name

 This instrument is the *Migration Amendment (Hong Kong Passport Holders) Regulations 2020*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | 9 July 2020. | 9 July 2020 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *Migration Act 1958.*

4 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Migration Regulations 1994

1 Regulation 1.03

Insert:

***Hong Kong passport*** means a Hong Kong Special Administrative Region of the People’s Republic of China passport.

2 Clause 482.511 of Schedule 2

Repeal the clause, substitute:

482.511

 (1) A temporary visa permitting the holder:

 (a) to travel to, and enter, Australia on multiple occasions; and

 (b) to remain in Australia;

during the period that:

 (c) starts when the visa comes into effect; and

 (d) ends in accordance with the following table.

| End of visa period |
| --- |
| Item | Column 1If … | Column 2the period ends at … |
| 1 | (a) the holder satisfied the primary criteria for the grant of the visa; and(b) item 2 does not apply; | the end of the period of stay proposed in the nomination identified in the application for the visa, starting on the date of grant of the visa. |
| 2 | the holder:(a) satisfied the primary criteria for the grant of the visa; and(b) on the date of grant of the visa, holds a Hong Kong passport in a class specified under subclause (2) of this clause; | the end of the period of 5 years starting on the date of grant of the visa. |
| 3 | (a) the holder satisfied the secondary criteria for the grant of the visa (the ***secondary visa***) as a member of the family unit of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of one of the following visas (the ***primary visa***):(i) a Subclass 457 (Temporary Work (Skilled)) visa;(ii) a Subclass 482 (Temporary Skill Shortage) visa; and(b) items 4 and 5 do not apply; | the end of the period the primary applicant is permitted to remain in Australia under the primary visa. |
| 4 | (a) the holder (the ***secondary applicant***) satisfied the secondary criteria for the grant of the visa (the ***secondary visa***) as a member of the family unit, in the circumstances described in subparagraph 1.12(2)(b)(ii) or subregulation 1.12(5), of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of one of the following visas (the ***primary visa***):(i) a Subclass 457 (Temporary Work (Skilled)) visa;(ii) a Subclass 482 (Temporary Skill Shortage) visa; and(b) the secondary applicant is not dependent on the primary applicant or the spouse or de facto partner of the primary applicant in the circumstances described in paragraph 1.05A(1)(b); and(c) item 5 of this table does not apply; | the earlier of:(a) the end of the period the primary applicant is permitted to remain in Australia under the primary visa; and(b) the end of the day before the secondary applicant’s 23rd birthday. |
| 5 | (a) the holder (the ***secondary applicant***) satisfied the secondary criteria for the grant of the visa (the ***secondary visa***) as a member of the family unit of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of one of the following visas (the ***primary visa***):(i) a Subclass 457 (Temporary Work (Skilled)) visa;(ii) a Subclass 482 (Temporary Skill Shortage) visa; and(b) on the date of grant of the primary visa, the primary applicant holds a Hong Kong passport; and(c) if the primary visa is a Subclass 482 (Temporary Skill Shortage) visa granted on or after 9 July 2020—the Hong Kong passport is, on the date of grant of the primary visa, in a class specified under subclause (2) of this clause; | the end of the period the primary applicant is permitted to remain in Australia under the primary visa. |

 (2) The Minister may, by legislative instrument, specify a class of Hong Kong passports for the purposes of items 2 and 5 of the table in subclause (1).

3 In the appropriate position in Schedule 13

Insert:

Part 90—Amendments made by the Migration Amendment (Hong Kong Passport Holders) Regulations 2020

9001 Subclass 457 visas

 (1) This clause applies to a Subclass 457 (Temporary Work (Skilled)) visa if:

 (a) the visa is in effect on or after 9 July 2020 (whether the visa was granted before, on or after 9 July 2020); and

 (b) the visa is granted on the basis that the holder satisfied the primary criteria for the grant of the visa; and

 (c) on the date of grant of the visa, the holder holds a Hong Kong passport.

 (2) This clause also applies to a Subclass 457 (Temporary Work (Skilled)) visa if:

 (a) the visa is in effect on or after 9 July 2020 (whether the visa was granted before, on or after 9 July 2020); and

 (b) the visa is granted on the basis that the holder satisfied the secondary criteria for the grant of the visa as a member of the family unit of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of a Subclass 457 (Temporary Work (Skilled)) visa (the ***primary visa***); and

 (c) on the date of grant of the primary visa, the primary applicant holds a Hong Kong passport.

 (3) Despite former clause 457.511 of Schedule 2 to these Regulations, a visa to which this clause applies is a temporary visa permitting the holder to:

 (a) travel to, and enter, Australia on multiple occasions; and

 (b) remain in Australia;

during the period that:

 (c) starts when the visa comes into effect; and

 (d) ends on 8 July 2025.

9002 Subclass 482 visas granted before 9 July 2020

 (1) This clause applies to a Subclass 482 (Temporary Skill Shortage) visa if:

 (a) the visa was granted before 9 July 2020; and

 (b) the visa was granted on the basis that the holder satisfied the primary criteria for the grant of the visa; and

 (c) on the date of grant of the visa, the holder held a Hong Kong passport; and

 (d) the visa did not cease to be in effect before 9 July 2020.

 (2) This clause also applies to a Subclass 482 (Temporary Skill Shortage) visa (the ***secondary visa***) if:

 (a) the secondary visa was granted before 9 July 2020; and

 (b) the secondary visa was granted on the basis that the holder satisfied the secondary criteria for the grant of the visa as a member of the family unit of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of one of the following visas (the ***primary visa***):

 (i) a Subclass 457 (Temporary Work (Skilled)) visa;

 (ii) a Subclass 482 (Temporary Skill Shortage) visa; and

 (c) on the date of grant of the primary visa, the primary applicant held a Hong Kong passport; and

 (d) the secondary visa did not cease to be in effect before 9 July 2020.

 (3) Despite clause 482.511 of Schedule 2 to these Regulations, a visa to which this clause applies is a temporary visa permitting the holder to:

 (a) travel to, and enter, Australia on multiple occasions; and

 (b) remain in Australia;

during the period that:

 (c) started when the visa came into effect; and

 (d) ends on 8 July 2025.

9003 Subclass 482 visas granted on or after 9 July 2020

 (1) The amendment of clause 482.511 of Schedule 2 to these Regulations made by the *Migration Amendment (Hong Kong Passport Holders) Regulations 2020* applies to a Subclass 482 (Temporary Skill Shortage) visa granted on or after 9 July 2020, whether the application for the visa was made before, on or after 9 July 2020.

 (2) For the purposes of items 2 and 5 of the table in subclause 482.511(1) of Schedule 2 to these Regulations, all Hong Kong passports are taken to be in a class specified under subclause 482.511(2).

 (3) Subclause (2) of this clause ceases to have effect when the first instrument (if any) made under subclause 482.511(2) of Schedule 2 commences.

9004 Subclass 485 visas granted before 9 July 2020

 (1) This clause applies to a Subclass 485 (Temporary Graduate) visa if:

 (a) the visa was granted before 9 July 2020; and

 (b) the visa was granted on the basis that the holder satisfied the primary criteria for the grant of the visa; and

 (c) on the date of grant of the visa, the holder held a Hong Kong passport; and

 (d) the visa did not cease to be in effect before 9 July 2020.

 (2) This clause also applies to a Subclass 485 (Temporary Graduate) visa (the ***secondary visa***) if:

 (a) the secondary visa was granted before 9 July 2020; and

 (b) the secondary visa was granted on the basis that the holder satisfied the secondary criteria for the grant of the visa as a member of the family unit of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa (the ***primary visa***); and

 (c) on the date of grant of the primary visa, the primary applicant held a Hong Kong passport; and

 (d) the secondary visa did not cease to be in effect before 9 July 2020.

 (3) Despite clause 485.511 of Schedule 2 to these Regulations, a visa to which this clause applies is a temporary visa permitting the holder to:

 (a) travel to, and enter, Australia on multiple occasions; and

 (b) remain in Australia;

during the period that:

 (c) started when the visa came into effect; and

 (d) ends on 8 July 2025.